



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10-085,631	02/28/2002	Armin Holle	B0004-7090	5372

21127 7590 06/04/2003

KUDIRKA & JOBSE, LLP
ONE STATE STREET
SUITE 1510
BOSTON, MA 02109

EXAMINER

NGUYEN, KIET TUAN

ART UNIT PAPER NUMBER

2881

DATE MAILED: 06/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/085,631

Applicant(s)

HOLLE

Examiner

K. MUELEN

Group Art Unit

2881

N

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- ☐ Responsive to communication(s) filed on _____
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-24 is/are pending in the application.
- ☐ Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-24 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement

Application Papers

- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).

☒ All ☐ Some* ☐ None of the:

- ☒ Certified copies of the priority documents have been received.
- ☐ Certified copies of the priority documents have been received in Application No. _____
- ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 7
- ☐ Interview Summary, PTO-413
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

Objected Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the spectrum measurement as recited in claim 1; the clock generator as recited in claims 1 and 21; the uniform resolving power as recited in claim 3; the delayed acceleration voltage pulse as recited in claim 5; means for the time-shaping of the delayed acceleration voltage pulse as recited in claim 6; an expert system as recited in claim 7; the R-C networks as recited in claim 10; means for rising over time the voltage of the acceleration voltage pulse as recited in claim 12; and means for moving the precursor ion selector and the post acceleration unit out of the path of the ion beam as recited in claim 24 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Rejection Under 35 U.S.C. 112, Second Paragraph

Claims 1-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-20 provide for the use of the method, but, since the claim does not set forth any steps involved in the method/process, it is unclear what method/process applicant is intending to

encompass. A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced.

Claims 1-20 are rejected under 35 U.S.C. 101 because the claimed recitation of a use, without setting forth any steps involved in the process, results in an improper definition of a process, i.e., results in a claim which is not a proper process claim under 35 U.S.C. 101. See for example *Ex parte Dunki*, 153 USPQ 678 (Bd.App. 1967) and *Clinical Products, Ltd. v. Brenner*, 255 F. Supp. 131, 149 USPQ 475 (D.D.C. 1966).

Claim 22 recites the limitation "the delayed triggering of the precursor ion selector" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 23 recites the limitation "the delayed triggering of the post-acceleration unit" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Rejection Under 35 U.S.C. 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-24 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Vestal et al. (5,625,184).

It is noted that claims 1-24, as the best understood by the meaning of 112, 2nd and drawing(s) above, are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Vestal et al. (5,625,184).

Claims 1-24 are rejected under 35 U.S.C. 102(a) as being anticipated by Vestal (6,348,688) or Koster et al. (6,300,627).

It is also noted that claims 1-24, as the best understood by the meaning of 112, 2nd and drawing(s) above, are rejected as:

Vestal (6,348,688) discloses, in figs. 1-12, a tandem time of flight mass spectrometer. The spectrometer includes a laser 27; an electronic generator for applying an acceleration voltage pulse to an electrode 36; a clock generator 162 for applying a periodic sequence of voltage pulses to elements in the time of flight mass spectrometer to switch between the laser and the elements; and means for closing or opening (see col. 7, line 66 to col. 8, line 21) an ion selector 14 which includes a drift tube 16 and a deflector 52, and a post acceleration unit 53 (see col. 6, lines 66-67), thereby when the ion selector and the acceleration unit are operated in the opening mode then they have the same results as removing the ion selector and the acceleration unit out of the path of ion beam.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

1) Verentchikov et al. disclose a tandem time of flight mass spectrometer having a clock generator for switching voltage pulses of elements in the spectrometer.

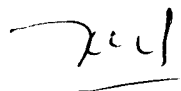
Application/Control Number: 10/085.631
Attorney's Docket No. B0004/7090

Art Unit: 2881
Paper No. 7

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner *Kiet T. Nguyen* whose telephone number is (703) 308-4855.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0956. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9318.

K.T.N/Primary
May 30, 2003



2003.05.30